

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SCOTT ROY MOSES,

Defendant.

No. CR 06-0015

**ORDER REGARDING
MAGISTRATE'S REPORT AND
RECOMMENDATION
CONCERNING DEFENDANT'S
GUILTY PLEAS**

I. INTRODUCTION AND BACKGROUND

On February 14, 2006, a three-count Indictment was returned against the defendant Scott Roy Moses. On March 23, 2006, the defendant appeared before United States Magistrate Judge John A. Jarvey and entered pleas of guilty to Counts 1 and 2 of the orally amended Indictment.¹ On March 23, 2006, Judge Jarvey filed a Report and

¹In the February 14, 2006 Indictment, the defendant was charged in Count 1 with being a felon in possession of a firearm in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2). In support of this charge, the government alleged in Count 1 (B) that "on or about April 11, 2003, in Black Hawk County, Iowa, defendant was convicted of Possession of Methamphetamine with Intent to Deliver." At the guilty plea hearing, Mr. Moses' attorney represented that the April 11, 2003 conviction was actually to a misdemeanor simple possession charge. The government orally moved to amend the Indictment to omit section (B) from Count 1. Judge Jarvey granted the government's oral motion to amend. The defendant did not dispute the felony conviction as set forth in Count 1(A). Thus, the amendment did not change the elements of the crime charged, or that the factual basis of the charge was satisfied. The defendant pleaded guilty to Counts 1 and 2 of the orally amended indictment. Per Judge Jarvey's request at the guilty plea hearing, the government filed an Amended Indictment reflecting the revision as set forth above on March 24, 2006 (docket number 21).

Recommendation in which he recommended that defendant's guilty pleas be accepted. No objections to Judge Jarvey's Report and Recommendation were filed. The court, therefore, undertakes the necessary review of Judge Jarvey's recommendation to accept defendant's pleas in this case.

II. ANALYSIS

Pursuant to statute, this court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made, as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.


FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the court upon review of Judge Jarvey's findings and conclusions, that there is no ground to reject or modify them. Therefore, the court **accepts** Judge Jarvey's Report and Recommendation of March 23, 2006, and accepts defendant's pleas of guilty in this case to Counts 1 and 2 of the

orally amended Indictment.

IT IS SO ORDERED.

DATED this 18th day of April, 2006.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA